IN THE

Supreme Court of the United States

OCTOBER TERM 1945

MATTIE BRADEY, as Administratrix of the Estate of Marion Thomas Bradey, deceased,

Petitioner,

against

UNITED STATES OF AMERICA, as represented by War Shipping Administration,

Respondent.

BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

POINT ONE

A merchant vessel, the possession, custody and control of which remains in a private corporation, and which is manned and navigated by civilian officers and crew, does not become a public vessel simply because she was allocated to transport war materiel for the army.

The court below erred in holding that the steamship "John Morton" was a public vessel simply because she had been allocated to carry military supplies and, at the time of the collision, had aboard some coal for delivery to the army.

What constitutes a public vessel? Technically, any vessel owned by a foreign country is considered a public vessel of that country, but in this country there has been such demarcation between merchant vessels and public

vessels. although both were owned by the government, that we must have a definition which is appropriate to our particular system.

Surely a government cargo ship, carrying munitions to the war zones, would not *ipso facto* become a public vessel just because of the nature of her cargo. A government-owned merchant ship would not in this country be considered a public vessel just because of the ownership. The crews of such government-owned merchant vessels, under existing laws and customs, may proceed in admiralty to enforce rights just as if the vessel were privately owned.

To our mind, a "public vessel" is one owned or under the exclusive control of the sovereign; manned by its army or navy crews; the operation and navigation under the sole command of the military personnel, and utilized in furtherance of the war effort, and restricted to performing the functions of government.

What are the facts in regard to the classification of the steamship "John Morton"?

The government publishes a book entitled "Merchant Vessels of the United States, 1944". The court will take judicial notice of this publication. Under the classification "Steam Vessels" we find the steamship "John Morton" listed as a merchant vessel, and thus proclaimed to be such by the government.

The steamship "John Morton" was a freight vessel. She had been delivered to Luckenbach Steamship Company, a private corporation, as operator, for and on behalf of the War Shipping Administration, under a General Agency Agreement.

In April 1944 certain vessels were allocated to carry war material from Hampton Roads to England. The "John Morton" was one of them, but she was not unconditionally turned over to the Army. The agreement for

her use stipulated that she was to be "crewed by the W. S. A." There was no bare-boat transfer.

Stipulation,* Exhibit "B"

Not only that, but shifting of the vessel was to be "By General Agents (Luckenbach) as required under W. S. A. direction"; even clearance and sailing "To be attended to by General Agents."

Stipulation, Exhibit "A-2"

So completely was control of the vessel retained by the General Agents that, when the Army desired to put a security officer aboard as a passenger, permission had to be obtained from W. S. A.

Stipulation, Exhibit "A-4"

The Luckenbach Steamship Company remained in charge of the operation and navigation of the "John Morton" to such exclusion of the Army that instructions in regard to ballast for the return voyage were sent by the War Shipping Administration to Luckenbach Steamship Company, and not to the Army.

Stipulation, Exhibit "A-8"

This ship never lost her character as a merchant vessel. She continued to be manned and operated by a civilian crew. Her internal management remained in the civilian Operating Agent. Under the terms of the allocation a private, civilian steamship company was designated "as berth agent for commercial and Lend Lease cargo."

Stipulation, Exhibit "A-7"

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* The Stipulation and Exhibits are not embodied in the Transcript of Record but will be submitted should this case reach argument.

If the mere carrying of munitions or war supplies converted that merchant vessel into a public vessel, then every cargo bottom in every convoy which left our shores, was a public vessel solely by virtue of cargo. We doubt if that is the test.

The concept that the carrying of war material or food for the relief of distressed populations, constitutes the carrying vessel a public vessel, derives from the decision of this court in *The Western Maid,* 257 U. S. 419.

That case is readily distinguishable from this *Bradey* case. "The Western Maid" was owned by the Shipping Board. She was allocated for use by the Navy. The *bare boat* was *physically delivered* to the Navy. The Navy took *exclusive possession of her* and put *a navy crew aboard.* There was a complete termination of all possession, operation and control by the Shipping Board. The navy had her; manned her; navigated her and exercised exclusive control over her. She was thus engaged in performing a function of the sovereign, just like any other auxiliary naval vessel.

And the same is true of the other vessels which were under consideration along with *"The Western Maid"* case.

The "Liberty" was a pilot boat under bare-boat charter to the United States and manned by *a navy crew.* She had actually been commissioned as *a navy dispatch boat* in the war service.

The "Carolinian" also was under bare-boat charter, *manned by an army crew,* and assigned to the army *as an army transport.*

And each of those cases arose before the enactment of the Public Vessels Act.

Now we have a remedy under the Suits in Admiralty Act if the ship was a merchant vessel, and also a remedy

under the Public Vessels Act if the ship was a public vessel.

So, the classification of the vessel as "merchant" or "public" would be unimportant under present laws, except that the court below has written into those laws an esoteric exception, to-wit, that naval personnel are excluded from their provisions. No such exception appears in the text of the statute and the court resorted to its own decision in the case of *Dobson* v. *United States*, 27 Fed. (2d) 807, which held that a crewman of a naval vessel could not sue the United States as owner under Public Vessels Act for a tort committed *by his own vessel.* The reason for that conclusion was that the navy crew was entitled to government pensions.

The court below side-stepped two facts in this *Bradey* case, either of which would take the case without the rule in the *Dobson* case, to-wit,

1. The suit is not against the libelant's own vessel. Were it not for the Suits in Admiralty Act, and the "John Morton" had been privately owned, that vessel, or her owner, would have been proceeded against.

2. The cause of action sued on is one created by the death statute of Virginia which allows recovery by parents for elements of damages not covered by any pension, and regardless of dependency.

The Circuit Court of Appeals entirely ignored the question as to libelant's right to recover under the Virginia statute, independently of any pension benefits.

The Circuit Court of Appeals brushed aside the Virginia statute, thinking that it was just a survival statute, like the Lord Campbell's Act whereas in fact it created a new and original cause of action for the recovery of elements of damage not recoverable under the Lord Campbell's Act.

The cases of *The Norman Bridge,* 290 Fed. 575 and *United States* v. *City of New York,* 8 Fed. (2d) 270, held that the mere use of a vessel for carrying food to war sufferers, regardless of how and by whom operated and navigated constituted her a public vessel. These cases were wrongly decided and should be overruled.

POINT TWO

Public Law 17 applied, by its terms, to seamen employed "through the War Shipping Administration" and contains no warrant for the conclusion that it evidences any public policy whereby navy crewmen, or their families, have no right to sue for damages caused by another W. S. A. vessel's negligence, because of existing pension rights.

The United States, as owner or bare-boat charterer of merchant vessels, desired to have these vessels manned, equipped and supplied by the same private steamship companies as had managed and conducted their own pre-war businesses as independent operators, and, in the same manner, to obtain crews through recognized seamen's unions. But, since the United States constituted these private companies as its agents, and the vessels would be manned, equipped and supplied by them for the account of the government, and the payrolls etc. would be paid by the government, thereby the officers and crews of such vessels would become civil employees of the United States. As such civil employees they would be entitled to the benefits of the Federal Employees' Compensation Act and the Civil Service Retirement Act.

It was neither intended nor desired that the crews of these merchant vessels should thus lose their standing as merchant seamen, privately employed. It was intended and desired to preserve to them all rights under the spe-

cial legislation in their behalf, such as the Jones Act; the Suits in Admiralty Act and the Death on the High Seas Act, as well as all rights and benefits under the general maritime law.

In order to avoid any possible doubt that such seamen on government merchant vessels retained their status as privately employed merchant seamen, and were not civil employees of the United States, Public Law 17 was enacted. It applied solely to officers and members of crews employed "through the War Shipping Administration".

50 U. S. C. A. App. 1291.

Therefore, the Public Law 17 has no application to naval personnel on a war vessel. It was special legislation to make certain that merchant seamen, members of maritime unions, would remain and be deemed as privately employed, even though the government paid their wages, so that they would look to the already existing laws protecting the rights of privately employed merchant seamen and were not to be regarded as civil employees of the United States.

There was no justification whatsoever for the Circuit Court's finding that Public Law 17 furnished the "warrant" for their supposition that public policy had undergone no change since the *Dobson* decision, and forbade a tort action in behalf of navy crewmen, simply because they were entitled to federal pensions.

Here's what the Senate Committee on Commerce (Senate Report No. 62, Feb. 22, 1943) had to say about Public Law 17:

> "In the exercise of its various functions and the conduct of its activities, the War Shipping Administration in general is authorized to operate with the

> powers of a business or a commercial organization under the provisions of the Merchant Marine Act, 1936. These activities are so broad and so manifold and the need for emergency action is so great, that the Administrator cannot function with the usual restrictions applicable to Governmental agencies * * *"
>
> "Various difficulties have arisen with respect to the benefits and remedies for seamen employed by, or on behalf of, the War Shipping Administration on vessels owned or bare-boat chartered to it. These questions arise because of a technical status of such seamen as employees of the United States by virtue of their employment through the War Shipping Administration for service on such vessels."

To solve the posed problem the Congress enacted Public Law 17 which definitely classified the government-paid seamen on merchant or public vessels, operated by the War Shipping Administration, as merchant seamen, privately employed.

With the foregoing history of Public Law 17 we cannot appreciate how the court below could have concluded,

> "This appears to us to show that Congress did not expect those in its service upon 'public vessels' to enjoy at once the privilege of employees' compensation and the right to recover damages for the same injuries."

Congress was not apprehensive that seamen on government merchant vessels would be entitled to *both* employees' compensation and damages for the said injuries. Congress simply wanted the merchant seamen to retain their existing rights and remedies as private employees—indemnity, maintenance and cure—and not lose them by any technical classification of them as civil employees, and thereby restrict them to compensation under the Federal Employees' Compensation Act.

Congress was not thinking of its naval personnel and their rights against third parties, or the rights of their surviving parents under a state death statute. Congress simply wanted to prevent thousands of civilian seamen, under emergency employment by a governmental agency, from being considered civil employees and thereby lose their beneficial status as private merchant seamen.

Public Law 17 expressly preserved all rights in these merchant seamen to pursue their accustomed legal rights and remedies "nothwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act".

The court below committed error in so interpreting Public Law 17 as to read into it the meaning that, because certain merchant seamen were permitted to retain their private-employee status, therefore naval personnel could not sue a vessel other than their own.

POINT THREE

There is no public policy of the United States which prevents the personal representative of a deceased Navy man from suing the owner of a vessel, not his own, which negligently inflicted fatal injuries.

The world has moved since the *Dobson* case, 27 Fed. (2d) 807 was decided in 1928. The Congress has legislated, and this Court has liberalized, to make the United States and its corporations and agencies subject to suit, just as if sovereign immunity did not exist, and that the government, and government owned corporations and agencies, were private parties, subject to suit as such.

If there be a public policy of the United States it stands forth clearly as one in favor of suits against it, and its agents, for meritorious causes of action.

The Fleet Corporation, wholly owned by the United States, was subject to direct suit for tort.

Sloan Shipyard v. *Fleet Corporation,* 258 U. S. 549.

The United States Shipping Board, a governmental agency, was subject to suit.

U. S. Shipping Board v. *Harwood,* 281 U. S. 519.

Likewise the Reconstruction Finance Corporation.

Reconstruction Finance Corp. v. *Menihan,* 312 U. S. 81.

And similarly the Federal Housing Administration (*Burr* case, 309 U. S. 242) and the Federal Land Bank (*Priddy* case, 295 U. S. 229).

The public policy suggested in the Dobson decision no longer obtains. The bars have been let down. The United States by the Merchant Marine Act, the Suits in Admiralty Act, the Death on the High Seas Act, and Public Law 17 has virtually stripped itself of sovereign immunity as to suits for tort.

These statutes establish a standing renunciation of sovereign exemptions.

Robinson on Admiralty, page 276.

The alleged public policy, upon which the court below relied, simply does not exist *now* whatever may have been the case when the *Dobson* case was decided.

POINT FOUR

A cause of action exists against the United States in favor of Naval personnel for a tort committed by a vessel, not his own, albeit Government owned.

We agree that the family of a deceased naval employee cannot sue the United States under any *federal* statute, for death caused by negligence or unseaworthiness *on his own vessel.*

Where a shell exploded on the Coast Guard ship "Seneca", a libel against the United States, as owner, under Public Vessels Act was dismissed because it was held that the Act did not cover naval personnel *as to their vessel.*

O'Neal v. *United States,* 11 Fed. (2d) 869; affirmed, 11 Fed. (2) 871.

And the same interpretation was reached in the cases growing out of the collision between the liner "City of Rome" and the submarine S-51. Administrators of deceased naval officers of the submarine brought libels, under the Public Vessels Act, against the United States, as owner of the submarine, which was charged with unseaworthiness and negligence. The Circuit Court sustained a dismissal of the libels.

Dobson, et al. v. *United States,* 27 Fed. (2d) 807.

In the Dobson decision the Circuit Court, without deciding the question, nevertheless said that the Public Vessels Act was so sufficiently broad that, were the libels by seamen or passengers on the "City of Rome", against the submarine owner, it would sustain it.

Two judges of our District Court have held that the Public Vessels Act covers personal injuries.

Porello v. *United States* (Judge Coxe), 53 F. Supp. 569;
Militano v. *United States* (Judge Conger), 55 F. Supp. 904 (6).

And the Act has been expressly held to cover death caused by collision, the fault of a public vessel.

New England Co. v. *United States,* 55 Fed. (2d) 674 (7).

The "John Morton" was owned by War Shipping Administration, an agency similar to the old Shipping Board. The destroyer "Parrott" was a naval vessel just like the vessels of the Coast Guard, and owned by the United States.

Where there was a collision between a Coast Guard vessel and a Shipping Board vessel, and a crew member of the Coast Guard vessel was killed, a right of recovery against the merchant vessel, also owned by the United States, was sustained.

> "C. G. 113 on July 20, 1928, in the vicinity of Overfalls Lightship, collided with S. S. 'Culberson', a Shipping Board vessel, and Wooten, a member of the Coast Guard, lost his life. Held: 'Where a member of a Coast Guard crew loses his life in a collision for which a Shipping Board vessel is liable, his administratrix may recover damages and funeral expenses.'"
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> *Wooten, Admx.* v. *United States,* 1931 A. M. C. 1997.

On appeal, there was no serious claim that there was no liability. The question involved was solely the amount of damages. Said the court.

> "The amount of damages is the only question before us, for there is no serious contention that the libelant is not entitled to an award."
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> *The Culberson,* 61 Fed. (2d) 195.

Suits by United States employees against government agents or agencies are not strangers to our courts.

Postal clerks in railroad mail cars are government employees. During the operation of the railroads for the government by the Director General of Railroads, a rail-

road mail clerk, injured through the negligence of the Director General's servants, could sue the Director General, even though *the plaintiff was a government employee and the defendant was a government agency.*

> "Under Federal Control Act, Sec. 10 (Com. St. Ann. Supp. 1919 Sec. 3115¾ j.) a railway mail clerk, injured on a railroad being operated by the Director General of Railroads, had a right of action against the Director General for negligence, and the recovery, if any, would be from the United States."
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> *Dahn* v. *Davis, Agent,* 258 U. S. 421.

Of course Dahn, having elected to receive, and did receive, federal compensation, he thereby forfeited his right to recover damages. But for that election, his right to sue the governmental agency would have been preserved.

It must be borne in mind that at the time of the Dahn decision the Federal Compensation Law provided that mere acceptance of compensation waived the right to a third party action. Had Dahn not accepted the compensation this Court said that he, a federal employee, could have sued the Director General, a federal agency.

We see no difference, in principle, between the dependents of a navy man, a federal employee, suing the War Shipping Administration, a federal agency, and a railway mail clerk, also a federal employee, suing the Director General, a federal agent.

The War Shipping Administration is the lineal descendant of the Fleet Corporation, Shipping Board and Maritime Commission, and inherited all of their powers and liabilities. That it was not incorporated is beside the point—it possesses all the elements of the independent entity of its progenitors.

A suit against the Fleet Corporation, wholly owned by the United States, was not the same as a suit against the sovereign owner.

> *Lindgren* v. *Fleet Corp.*, 55 Fed. (2d) 117; certiorari denied, 286 U. S. 542.

And suits against federal agencies, performing business or commercial services for the sovereign, are sustainable notwithstanding the sovereign may eventually have to pay.

> *Federal Housing Administration* v. *Burr*, 309 U. S. 242 (4); 60 S. Ct. 488.

The War Shipping Administration, as the successor to the Maritime Commission, acquired "All the general and implied powers of a business corporation."

> Opinion of the Attorney General, 1944 A. M. C. at page 595;
> 46 U. S. C. A. 1118.

> "In the exercise of its various functions and in the conduct of its activities, the War Shipping Administration in general is authorized to operate with the powers of a business or commercial organization under the provisions of the Merchant Marine Act, 1936."
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> Senate Committee on Commerce Report, Vol. 1, United States Code Congressional Service, 1943, pages 2-12.

And, of course, the constructing, equipping, manning and operating of a fleet of cargo ships is a business venture, even if, at times, the ships act as fleet auxiliaries or public vessels.

The suits are maintainable against the United States, as represented by the War Shipping Administration, for the

benefit of dependents of a navy man where the action is not against his own ship but against a *de facto* third party, albeit such third party is an agency of the United States, the employer of the decedent.

POINT FIVE

The Death Statute of Virginia created a new and original right of action which may be enforced against the United States, as represented by War Shipping Administration, notwithstanding the deceased himself had no right of action under any law.

Particularly is this true when the right of action does not derive from any federal law but solely from a state statute.

Without the Virginia Death Act there would be no cause of action; for neither the Death on the High Seas Act nor the Jones Act applies, and, there is no right under general admiralty law to recover for death.

This is not a suit under any survival statute. It is not a suit to enforce a cause of action which was personal to the deceased. It is not a suit to recover for any conscious pain or suffering by deceased, nor for any injury to him.

It is a special and new cause of action arising out of the death.

Let us assume that the contention of respondent is correct, and that the deceased himself had no right of action for his injuries either against his own ship or the other vessel, and, therefore, none could survive, still *a new cause of action* arose *at his death,* a creature of the Virginia statute, and which the beneficiaries may enforce against the wrongdoer, irrespective of whether the deceased had any personal rights. In other words, the suit

is upon an original cause of action, created at the instant of death, and not concerned with any personal rights which the deceased may or may not have had, had he survived. It had no existence until the death occurred.

> "The death statute creates a new and original right of action in the surviving relatives of the deceased * * * not a mere survival of the cause of action which had previously existed in the deceased."
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> *Virginia Iron Co.* v. *Odle's Adm'r,* 128 Va. 280; 105 S. E. 116;
> *Atlantic Greyhound Lines* v. *Keesee,* 111 Fed. (2d) 657 (8).

The elements of damage under the Virginia Act are based upon sentimental and humane considerations and not upon the cold and mathematical basis of pecuniary loss. These elements necessarily come into being *after* the death, because they cover the grief and mental anguish of the parents, for being deprived of the society, solace and comfort of their son; for *their* mental anguish over the pain and suffering *endured by their son.*

> *Anderson* v. *Hygeia Hotel Co.,* 92 Va. 687, 692;
> *Ratcliff* v. *McDonald, Admr.,* 123 Va. 781;
> *Virginia Iron* v. *Odle's Admr.,* 128 Va. 280.

These elements have no regard for mere pecuniary loss. They may be recovered whether the family is rich or poor.

> *Crawford* v. *Hite, Admr.,* 176 Va. 69, 76.

The court below erred in dismissing the libel for it set forth a good cause of action under the Virginia statute, the enforcement of which could not be defeated by an alleged public policy in view of the federal statutes which expressly consent that the United States may be sued

in admiralty for torts committed by its vessels, either merchant or public, if a private owner, under like circumstances, would be subject to suit.

POINT SIX

The fact that the United States created a pension system for its naval forces, and that parents of a deceased Navy man receive such pensions, cannot operate to bar a suit under a state statute.

In the first place, the pension is a creature of statute and is purely a voluntary beneficence bestowed upon the families of those who meet death in the naval service. The pension is for the benefit of the parents, as such, and did not depend upon the existence of any cause of action, or supposed cause of action, against the employer.

Partridge v. *United Elastic Corp.*, 288 Mass. 138; 192 N. E. 460.

The pension may offset mere pecuniary loss but it cannot heal the mental pain, the heart-distress and the sense of bereavement of the parents. It takes no regard of sentimental values, yet those are the principal elements under the Virginia statute and for which suit is brought.

See Libel, articles 11-14 (R., p. 5).

Under the Virginia statute the jury may disregard pecuniary loss and award such damages as may be fair and just.

Matthews v. *Warner, Admr.*, 70 Va. 570 (2).

So that the pension system can afford respondent no defense to an action under the Virginia Death Statute,

for the pension does not, and was never intended to, substitute for the original cause of action created by the Virginia Death Statute and the unique elements of damages allowed thereunder.

Nor can the respondent find either set-off or defense in the pension law because it is liable for the *whole damages* caused by its negligence and it cannot diminish, nor escape, that liability simply because the beneficiary may have been paid a pension, or other benefits, from a source not predicated upon its legal liability for the tort. The pension really contemplated a non-actionable disability or death, in the line of military duty.

The family is entitled, *as a matter of right,* to the pension and the matter of pension should be disregarded in considering the legal liability for the death.

Shea v. *Rettie,* 287 Mass. 454.

"In assessing the damages for death of one employed in city fire department, pension which widow is receiving from city should not be considered."

Geary v. *Metro. St. Ry.,* 73 App. Div. 441.

"The amount awarded one enlisted in the United States Navy for loss of time because of injury negligently inflicted upon him by a third person should not be deducted from the total amount awarded him as damages, although he continued for a time to draw his pay from the government and received an allowance for vocational rehabilitation under the Federal statutes."

Cunnien v. *Superior Iron Works,* 175 Wis. 172 (5).

"One sued for negligently injuring employee of United States cannot set up payment of compensa-

tion to such employee by United States under Compensation Act in mitigation of damages."

Lassell v. *City of Gloversville*, 217 App. Div. 323 (2).

The pension law exists independently of civil liability for injury or death. Pensions were created voluntarily by Congress without regard to any legal responsibility to the beneficiaries, sounding in tort. The payment of pensions was voluntarily assumed by the government and was intended to be made notwithstanding any state death statutes.

Where suit was brought against the United States on a war risk insurance policy the fact that the United States had paid compensation to the plaintiff was held irrelevant, since the liability under the policy was a *separate obligation* and the *voluntary payment of compensation could not affect it.*

Christman v. *United States*, 61 Fed. (2d) 673, at 674;
Lomicka v. *United States*, 2 Fed. Supp. 766.

Conclusion

The United States, as represented by the War Shipping Administration is, in effect, but another unincorporated Fleet Corporation, or, like unto the Director General of Railroads. Such Administration has been made subject to suit under the Suits in Admiralty Act. Such Administration is engaged in a non-governmental function in operating cargo vessels. Even if a vessel be diverted to war use, and *ipso facto* a public vessel, still a liability exists under the Public Vessels Act.

The parents of an employee of the sovereign, killed through the negligence of another vessel, operated by the "business" and non-sovereign Administrator, may sue for damages under a state death statute where the death occurred on navigable waters within the territorial limits of a state, and the cause of action is new and original, and personal unto decedent's family.

The Virginia Death Statute is totally different from Lord Campbell's Act. It is more than a survival statute. It creates a cause of action undreamed of by Lord Campbell. It is not only original and distinctive, but quite peculiar to Virginia. It is expressly applicable in cases where the death is the result of the wrongful act "of any ship or vessel."

Exhibit "A" to Libel, Record p. 10.

The fact that the United States had established a system of voluntary pension, and other benefits, for the dependents of naval personnel, cannot operate to defeat such state law cause of action which is based upon elements of damages not personal to the deceased, but upon a new and original cause of action which only came into being at the time of the death. The pension law was not enacted in anticipation of suits under state statutes.

The Public Vessels Act applies to personal injury and death inflicted by the negligence of a public vessel against seamen on another public vessel.

The duality of government activity whereby it is both sovereign and commercial in distinct relationship to the world, makes its commercial branch amenable to the state laws where an agency of the sovereign branch negligently causes damage, and as to which sovereign immunity has been waived.

The public policy, as now declared, is in favor of suits against the United States for torts committed by its employees and agents. This is true even as to public vessels. That public policy is now so broad that merchant seamen, employed by the government, may sue for torts under Public Law 17 "notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act."

50 U. S. C. A. App. Sec. 1291.

The libel sets forth a good cause of action, and the decision of the Circuit Court of Appeals dismissing it, should be reviewed and reversed.

The writ of certiorari should be granted.

Respectfully submitted,

SIMONE N. GAZAN,
Proctor for Libelant.